

STATE OF INDIANA)
COUNTY OF MARION) SS: BEFORE THE ENVIRONMENTAL MANAGEMENT
BOARD OF THE STATE OF INDIANA

IN THE MATTER OF
GARY DEVELOPMENT COMPANY, INC.,

Petitioner,

v.

THE ENVIRONMENTAL
MANAGEMENT BOARD OF
THE STATE OF INDIANA,

Respondent.

CAUSE NO. N-53

PETITIONER'S ANSWERS TO RESPONDENTS
FIRST SET OF INTERROGATORIES, REQUESTS
FOR ADMISSIONS AND REQUESTS FOR THE
PRODUCTION OF DOCUMENTS

Comes now the Petitioner, Gary Development Company, Inc., by counsel, and states the following responses and objections to Respondant's First Set of Interrogatories, Requests for Admissions and Requests for the Production of Documents.

A. OWNERSHIP OF LANDFILL AND STATUS OF CORPORATION

INTERROGATORY NO. 1. The original application for a construction permit for the Petitioner's site indicates that Gary Land Development Company, Inc., was the owner.

(a) Discuss in detail the relationship between said company and Gary Development, Inc. (hereafter referred to as "Petitioner").

(b) Identify the title holder for the real property for the subject landfill site. Describe in detail Petitioner's relationship to the title holder.

(c) Is Petitioner a corporation currently in good standing with the State of Indiana and supply a certificate stating such from the Secretary of State.

(d) List all corporate officers for Gary Development, Inc., including title, name, and address.

(e) Discuss in detail Larry Hagen's authorities, duties and responsibilities for the Petitioner.

(f) Produce all documents relating to your responses to the questions and requests for admissions contained in Interrogatory 1 and all subparts hereto.

ANSWER. (a) "Gary Land Development Company, Inc." and "Gary Development, Inc." are both misnomers foisted upon Gary Development Company, Inc. through clerical error.

(b) Gary Development Company, Inc. Petitioner and Gary Development Company, Inc. are the same legal entity and title holder to the property.

(c) Yes. The Certificate of Good Standing is a matter of public record and is as easily, if not more easily, obtainable by Respondent as by Petitioner.

(d) William M. Nanini
President and Treasurer
479 North Cline Avenue
P. O. Box 6056
Gary, Indiana

Henry Leyva
Secretary
479 North Cline Avenue
P. O. Box 6056
Gary, Indiana

Lawrence H. Hagen
Executive Vice President
479 North Cline Avenue
P. O. Box 6056
Gary, Indiana

(e) Mr. Hagen is responsible for overall construction and operation of the Gary Development Landfill.

(f) The deed for the property is recorded in the Lake County Recorder's office, is a matter of public record, and is available for inspection during normal business hours. Petitioner agrees to make any other specified documents available for inspection at a mutually agreed upon time at the Gary Development Company, Inc., offices and at the offices of Mr. James Nannini, the company's accountant. Mr. Nannini's offices are at 7703 Sussex Creek Drive, Darien, Illinois 60559.

B. DAILY OPERATION OF LANDFILL

INTERROGATORY NO. 2. According to the construction plans the Petitioner's landfill operating hours, during which refuse is accepted for disposal, are from 7:00 a.m. to 4:00 p.m., Monday through Friday, and 7:00 a.m. to 11:00 a.m. on Saturday.

(a) Admit or deny that these are the actual hours of operation. If the response is one of denial list the actual operating hours.

(b) Admit or deny that Mr. Hagen is on-site during the outlined operating hours.

(c) If the response to Interrogatory 2(b) is one of denial give the name, address and phone number of the person responsible for the operation of the site during Mr. Hagen's absence.

(d) Admit or deny that waste is disposed of at the site after the designated operating hours.

(e) If the answer to Interrogatory 2(c) is admit, discuss those situations that result in after hour disposal and include a description of the waste and its quantity, the name of the waste generator, and the name of the hauler of the waste.

(f) Admit or deny that Mr. Hagen, or his designee, inspects the landfill at the end of each operating day to

determine that all refuse has been covered with a minimum of six inches of cover soil.

(g) Admit or deny that all solid waste is covered with a minimum of six inches of soil at the end of each operating day.

(h) Admit or deny that fly ash or shredder material has been used in lieu of daily soil cover.

(i) If your response to any of the above requests for admissions is one of denial, explain in detail the reason for your denial.

(j) Is there a security guard present on-site after operating hours? If so, what is his name, address, and telephone number.

(k) Is a daily operational log or record kept on any of the following:

- (i) Amount of refuse accepted for disposal.
- (ii) Results of inspections of the facility by the operator.
- (iii) Equipment utilized on site.
- (iv) Equipment breakdowns.
- (v) Weather conditions.
- (vi) Rental of back up equipment.
- (vii) Construction activities.

(l) If the answer to Interrogatory 2(j) is one of admission produce a copy of the log or record.

ANSWER. (a) Deny. The above outlined hours are the landfill's normal operating hours. There are occasions when the landfill has been closed during these hours. There are also occasions when waste has been accepted at times other than normal operating hours.

(b) Deny, although Mr. Hagen is frequently on-site.

(c) Lawrence Hagen, Jr.
479 North Cline Avenue
P. O. Box 6056
Gary, Indiana
219-944-7858

(d) Admit to the extent that waste is sometimes disposed of at times other than normal operating hours.

(e) Not applicable. No admission was requested in Interrogatory 2(c).

(f) Admit.

(g) Admit.

(h) Deny.

(i) With respect to Interrogatory 2(a), see the answer to Interrogatory 2(a). With respect to Interrogatory 2(b), Mr. Hagen is not on site during lunch periods, vacations, sick days and other times when his presence is required elsewhere. With respect to Interrogatory 2(h), shredder material has been used in addition to daily cover soil, to serve as a traction aid for vehicles driving on the landfill.

(j) Yes. The security guards currently employed by Gary Development Company, Inc. include:

Bud Martin
479 North Cline Avenue
Avenue P. O. Box 6056
Gary, Indiana
219-885-9481

Brian Boyd
479 North Cline
P. O. Box 6056
Gary, Indiana
219-885-9481

William Essary
479 North Cline Avenue
P. O. Box 6056
Gary, Indiana
219-885-9481

Ray Burton
473 North Cline Avenue
P. O. Box 6056
Gary, Indiana
219-885-9481

- (k) (i) Yes.
- (ii) No.
- (iii) No.
- (iv) Yes, to some extent.
- (v) No.
- (vi) Yes, to some extent.
- (vii) No.

(1) Petitioner has given a complete answer to No. 2(j).

INTERROGATORY 3. Admit or deny that the following inspection reports were signed by an authorized representative of Gary Development, Inc.

- (1) June 19, 1980
- (2) July 25, 1980
- (3) September 3, 1980
- (4) November 14, 1980
- (5) January 8, 1981
- (6) April 21, 1981
- (7) August 20, 1981
- (8) October 20, 1981
- (9) January 8, 1982
- (10) August 10, 1982

ANSWER. (1) Admit, although the mere fact of signing the report by an authorized representative of Petitioner does not necessarily indicate the signatory's, or Petitioner's agreement with the conclusions of the report itself.

- (2) Admit, with the same caveat mentioned in (1) above.
- (3) Deny.
- (4) Admit, with the same caveat mentioned in (1) above.
- (5) Admit, with the same caveat mentioned in (1) above.
- (6) Admit, with the same caveat mentioned in (1) above.
- (7) Admit, with the same caveat mentioned in (1) above.
- (8) Admit, with the same caveat mentioned in (1) above.
- (9) Admit, with the same caveat mentioned in (1) above.
- (10) Admit, with the same caveat mentioned in (1) above.

C. CONSTRUCTION PLANS

INTERROGATORY NO. 4. In reference to the approved 1973 construction plans for the landfill site:

- (a) Admit or deny that the external dewatering system has not been constructed around the entire site.
- (b) Admit or deny that a flow meter was not provided on the discharge to the Grand Calumet River.
- (c) Admit or deny that a water quality monitoring program was not established for the discharge to the Grand Calumet River.
- (d) Admit or deny that a clay wall has not been constructed around the entire site.
- (e) Admit or deny that a leachate collection system as illustrated in Exhibit No. 1 of the plans has not been

constructed under the eastern portion of the site that has been filled.

(f) Admit or deny that leachate collected on-site has not been taken to a wastewater treatment plant.

(g) Admit or deny that a gas venting system has not been installed on-site.

(h) If your response to any of the above requests for admission is one of denial, explain in detail the reason for your denial.

(i) Produce all documents relating to your responses to the questions and requests for admissions contained in Interrogatory 3 and all subparts hereto.

ANSWER. Objection. The only matters relevant to Respondent's case are alleged violations by Petitioner of applicable requirements since May 20, 1980, without waiver of, and as limited by this objection, which applies to all subparts of No. 4, Petitioner gives the following responses:

(a) Admit, although this became unnecessary when, with the state's knowledge and acquiescence, actual construction of the site deviated from the plans. The required dewatering system was constructed around that portion of the site that was being filled.

(b) Admit.

(c) Deny.

(d) Admit, although this became unnecessary when, with the state's knowledge and acquiescence, actual construction of the site deviated from the plans. The required clay wall was

constructed around that portion of the site that was being filled.

(e) Deny.

(f) Admit, although this became unnecessary when, with the state's knowledge and acquiescence, actual construction of the site deviated from the plans. As Respondent knows, leachate that is generated is collected and trapped on-site; is not allowed to go off-site; and is utilized, with Respondent's express authorization, in the Admixture operations on-site.

(g) Deny.

(h) With respect to No. 4(c), a water quality monitoring program was established. With respect to No. 4(e), a leachate collection system, as shown in the 1973 plans, was established under the eastern portion of the site. With respect to No. 4(g), a gas venting system has been installed on site.

(i) Petitioner agrees to make any requested document available for Respondent's inspection at a mutually agreed upon time at the Gary Development Company, Inc., offices and at the offices of Mr. James Nannini, the company's accountant. Mr. Nannini's offices are at 7703 Sussex Creek Drive, Darien, Illinois 60559. An inspection of the landfill site will confirm the presence of the items referred to in Nos. 4(e) and 4(g).

INTERROGATORY NO. 5. The 1980 proposal to amend the Construction Plan outlines how future site construction will be

conducted in a manner different from the previously mentioned 1973 construction plan. Relative to the plan:

(a) Admit or deny that Petitioner reviewed the plan and submitted the amendment application form.

(b) The construction techniques for the berm along the west side of the site was detailed in the amendment plan. Relative to the berm which has been constructed along the west side of the site:

(i) Admit or deny that the berm is keyed into the clay in the pit bottom.

(ii) Admit or deny that the berm was constructed by placing native clay soils in maximum 12 inch layers and compacting.

(iii) Admit or deny that the berm is a minimum of 25 feet thick in the horizontal plan from top to bottom.

(iv) Admit or deny that the berm was compacted at optimum moisture content to a ninety percent maximum density as determined by the Standard Proctor Test. If your answer is one of admission provide copies of results of soil tests.

(c) Admit or deny that the Petitioner was aware of groundwater or fluids flowing into the site along the west side of the pit prior to the proposal to amend the Construction Plans.

(d) If your response to any of the above requests for admissions is one of denial, explain in detail the reason for your denial and give a detailed explanation of how the berm was constructed if different from the method described in the amendment plans.

(e) What size and type of equipment was utilized to construct the berm?

(f) Give the names, addresses, and phone numbers of equipment operators who constructed the berm.

ANSWER. (a) Admit.

(b) (i)-(iv) Objection. These requests for admissions assume that the entire berm along the west side of the site was required to be constructed in accordance with the plans approved by Respondent February 16, 1982, which assumption is contrary to law and fact, and is therefore irrelevant and an improper request for admission under the Indiana Rules of Trial Procedure.

(c) Objection. See Objection to No. 4 above. Without waiver of, and as limited by this objection, Petitioner's response is: Admit.

(d) Not applicable.

(e) B. E. 40-H Hydraulic Hoe
Catterpillar D-8 Bulldozer
Remod 370 Compactor

(f) Ed DeVries
479 North Cline Avenue
P. O. Box 6056
Gary, Indiana
219-944-7858

Larry Hagen, Jr.
See Answer to
Interrogatory 2(c) above

Nick DeFrank
479 North Cline Avenue
P. O. Box 6056
Gary, Indiana
219-944-7858

INTERROGATORY NO. 6. Was any registered engineer on site during construction of the berm along the west wall to observe,

review or critique said construction? If the answer is no, who was responsible for assuring the berm was constructed according to the proposed plans to amend the construction permit.

ANSWER. No to Petitioner's knowledge, this is not, and has not been, a requirement of any approved plan, permit or regulation. Larry H. Hagen, Sr. was on site from time to time to oversee the construction of the referenced berm.

D. HAZARDOUS AND SPECIAL WASTE

INTERROGATORY NO. 7. List the following information for each RCRA hazardous waste disposed of at the Petitioner's landfill since November 19, 1980 and provide a copy of the manifest form which accompanied each waste.

- (a) Name or type of each specific waste and EPA Hazardous Waste Number.
- (b) Generator's name and address.
- (c) Name and address of hauler that transported the waste.
- (d) Total quantity received to date.
- (e) Copies of lab analysis of material.
- (f) Date the last load of waste was received.

ANSWER. Pursuant to Ind. R. Trial P. 33(c), Petitioner agrees to make available for Respondent's inspection at a mutually agreed upon time, Petitioner's business records located at the Gary Development Co., Inc. office, 479 North Cline Avenue, Gary, Indiana, and at the office of Mr. James Nannini, 7703 Sussex Creek Drive, Darien, Illinois 60559, from which the requested information can be ascertained.

INTERROGATORY NO. 8. Admit or deny that waste from Jones and Laughlin Steel's 6-stand oil recovery unit has been disposed of at the petitioner's landfill.

ANSWER. Admit.

INTERROGATORY NO. 9. If the answer to Interrogatory 8 is one of admission, describe the physical characteristics of the waste delivered to the site.

ANSWER. The waste material is a dark colored material, varying in consistency from a semi-solid to a substantially solid material.

INTERROGATORY NO. 10. List the following information for each special waste which is a hazardous waste under the landfill regulation definition (320 IAC 5), but not a RCRA hazardous waste, which have been disposed of at the Petitioner's landfill since June 1, 1980:

- (a) Name or type of waste.
- (b) Generator's name and address.
- (c) Name and address of hauler that transported waste.
- (d) Total quantity received to date.
- (e) Copies of lab analysis of waste.
- (f) Date the last load of waste was received.

ANSWER. Pursuant to Ind. R. Trial P. 33(c), Petitioner agrees to make available for Respondent's inspection at a mutually agreed upon time, Petitioner's business records located at the Gary Development Company, Inc. office, 479 North Cline Avenue, Gary, Indiana, and at the office of Mr. James

Nannini, 7703 Sussex Creek Drive, Darien, Illinois 60559, from which the requested information can be ascertained.

INTERROGATORY NO. 11. Has the following ever been disposed of at the site by dumping into pits excavated into previously filled areas of the landfill?

- (a) RCRA hazardous waste
- (b) Special waste

ANSWER. (a) Objection. The only matters relevant to Respondent's case are alleged violations by Petitioner of applicable requirements since May 20, 1980. Without waiver of, and as limited by this objection, the answers to both (a) and (b) are: No.

INTERROGATORY NO. 12. If the answer to Interrogatory 11 is yes, list those wastes which have been handled in the described manner and indicate the maximum amount of time that passed before the pit was filled in with refuse and covered.

ANSWER. Not applicable.

INTERROGATORY NO. 13. Admit or deny that RCRA hazardous wastes or special wastes have been disposed of at the Petitioner's site after operating hours established by the answer to Interrogatory B 2(a).

ANSWER. Objection. The request is ambiguous because it covers two separate, distinct items. Without waiver of this objection, Petitioner states that many kinds of waste have been disposed of before or after "normal" business hours. Petitioner agrees to make available for Respondent's inspection at

a mutually agreed upon time produce its business records located at the Gary Development Company, Inc. office, 479 North Cline Avenue, Gary, Indiana, and at the office of Mr. James Nannini, 7703 Sussex Creek Drive, Darien, Illinois 60559, from which the requested information can be ascertained.

E. MISCELLANEOUS

INTERROGATORY NO. 14. Were the monitoring wells on-site sampled during April of 1982? If yes, produce a copy of the test results.

ANSWER. No, but samples were taken in late June and August, 1982.

INTERROGATORY NO. 15. List the educational background of Larry Hagen including the degree or certificate conferred, the school from which the degree or certificate was conferred, and the date of conferral.

ANSWER. Graduated, 1953 Thornton Township High School, Harvey, Illinois.

INTERROGATORY NO. 16. List Larry Hagen's work experience prior to working for Gary Development, Inc. relative to the operation of solid waste disposal facilities.

ANSWER. Operator,
Active Ability, Inc.
Solid Waste Facility
17730 Chicago Avenue
Lansing, Illinois
Facility completed in 1970

Co-operator,
Chicago Hts. Solid Waste Facility
Chicago Hts., Illinois
1966 - 1968

Co-operator
Nardi and Sahia
Peatone Solid Waste Facility
Peatone, Illinois
1966 - 1969

INTERROGATORY NO. 17. Does the petitioner or Larry Hagen own or operate any other landfill sites or solid waste related facilities? If yes, list the name, address, and nature of business of the sites or facilities.

ANSWER. No.

INTERROGATORY NO. 18. Does the Petitioner provide, or if not, send its employees to, a training program of any kind, formal or informal, on operating a landfill?

(a) If so, discuss in detail the nature of such programs; and produce documentation that the current employees have completed such training.

ANSWER. As a prerequisite to being hired, all equipment operators are trained and certified by the Operating Engineers Union, Local 150.

(a) The Operating Engineers Union has training schools where the operators are trained. All operators have undergone training and apprenticeship programs, and are currently journeymen operators.

Respectfully submitted,

Petitioner, Gary Development
Company, Inc.

John M. Kyle III

E. Victor Indiano
E. Victor Indiano

Counsel for Petitioner

Barnes & Thornburg
1313 Merchant's Bank Building
Indianapolis, Indiana 46204

Lawrence H. Hagen, Sr.
Lawrence H. Hagen, Sr.
Executive Vice President,
Gary Development Company, Inc.

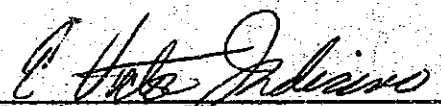
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing "Petitioner's Answers to Respondents First Set of Interrogatories" has been served on the Respondent's attorney:

Mathew S. Scherschel, Deputy Attorney General
Counsel for Environmental Management Board of
the State of Indiana
Room 219, State House
Indianapolis, Indiana 46204

by hand delivery, this 6th day of December, 1982.

John M. Kyle, III



E. Victor Indiano